

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

MARCELINO RIO-CALVA,

Defendant.

No. 2:10-CR-2001-WFN-1

ORDER DISMISSING § 2255  
MOTION WITHOUT PREJUDICE

Pending before the Court is Defendant's 28 U.S.C. § 2255 Motion to Vacate Sentence and for Resentencing. ECF No. 85. Defense counsel has been unable to locate Defendant and has been informed by the United States Probation Office that he has been deported. ECF No. 96. The Court cannot address the merits of the Motion until such time that the Defendant is available to confer with counsel. The Court has reviewed the file and is fully informed. Accordingly,

**IT IS ORDERED** that:

1. Defendant's 28 U.S.C. § 2255 Motion to Vacate Sentence and for Resentencing is **DISMISSED WITHOUT PREJUDICE**.

2. The civil case, 1:16-CV-3110-WFN, shall be **CLOSED**.

The District Court Executive is directed to file this Order and provide copies to counsel.

**DATED** this 23rd day of March, 2017.

s/ Wm. Fremming Nielsen

WM. FREMMING NIELSEN

SENIOR UNITED STATES DISTRICT JUDGE

03-23-17

ORDER DISMISSING § 2255  
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